

1973

c 103 The Mortgage Brokers Amendment Act, 1973

Ontario

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CHAPTER 103

**An Act to amend
The Mortgage Brokers Act**

*Assented to October 30th, 1973
Session Prorogued March 5th, 1974*

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Mortgage Brokers Act*, being chapter 278 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1971, chapter 50, section 59 and 1972, chapter 1, section 45, is further amended by adding thereto the following clauses:

(bb) "equity share" means any share of any class of shares of a corporation carrying voting rights under all circumstances and any share of any class of shares carrying voting rights by reason of the occurrence of any contingency that has occurred and is continuing;

.

(ea) "non-resident" means an individual, corporation or trust that is not a resident;

.

(ia) "resident" means,

(i) an individual who is a Canadian citizen or has been lawfully admitted to Canada for permanent residence and who is ordinarily resident in Canada,

(ii) a corporation that is incorporated, formed or organized in Canada and that is controlled directly or indirectly by persons who are residents or by a resident trust, or

(iii) a trust that is established by resident individuals or a resident corporation or one in

which resident individuals or corporations hold more than 50 per cent of the beneficial interest.

s. 5 (1),
amended

2. Subsection 1 of section 5 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 59, is amended by adding "or" at the end of clause *d* and by adding thereto the following clause:

(*e*) the applicant fails to comply with section 8 or 9, as the case may be.

ss. 8, 9,
enacted

3. The said Act is amended by adding thereto the following sections:

Resident
require-
ments re
individuals

8.—(1) Subject to subsection 2, no individual shall carry on business in Ontario as a mortgage broker unless,

(*a*) he is a resident; or

(*b*) where he is a member of a partnership or an association, syndicate or organization of individuals, every member thereof is a resident.

Idem

(2) An individual who is carrying on business as a registered mortgage broker immediately before the 2nd day of October, 1973, and who on that day is in contravention of subsection 1, may continue to carry on business subject to the provisions of this Act if,

(*a*) his interest or any part thereof is not transferred to or for the benefit of a non-resident; or

(*b*) where he is a member of a partnership or an association, syndicate or organization of individuals, no person who is a non-resident is admitted as a member thereof.

Resident
require-
ments re
corporations

9.—(1) No corporation shall carry on business in Ontario as a mortgage broker if,

(*a*) the total number of equity shares of the corporation beneficially owned, directly or indirectly, by non-residents or over which non-residents exercise control or direction exceeds 25 per cent of the total number of issued and outstanding equity shares of the corporation;

(*b*) the total number of equity shares of the corporation beneficially owned, directly or indirectly, by a non-

resident over which he exercises control or direction, together with other shareholders associated with him, if any, exceeds 10 per cent of the total number of issued and outstanding equity shares of the corporation; or

- (c) the corporation is not incorporated by or under an Act of Ontario, Canada or any province of Canada.

(2) A corporation that was carrying on business as a registered mortgage broker immediately before the 2nd day of October, 1973, and which on that day is in contravention of subsection 1, may continue to carry on business, subject to the provisions of this Act,

- (a) in the case of a contravention of clause *a* or *b* of subsection 1, if no transfer of equity shares or beneficial interest therein including their control or direction is made to a non-resident or person associated with him excepting when the result would be in compliance with clauses *a* and *b* of subsection 1; or
- (b) in the case of a contravention of clause *c* of subsection 1, until the 1st day of January, 1975, but a corporation incorporated after this Act comes into force and before the 1st day of January, 1975 by or under an Act of Ontario, Canada or a province of Canada may, notwithstanding clauses *a* and *b* of subsection 1, be registered in the place of the first mentioned corporation if the equity shares of the new corporation or beneficial interest therein, including their control or direction, held by non-residents are held directly or indirectly in the same manner as the equity shares of the first mentioned corporation, but where the new corporation is in contravention of clause *a* or *b* of subsection 1, clause *a* of this subsection applies.

(3) For the purpose of this section, a shareholder shall be deemed to be associated with another shareholder if, ^{Associated shareholders}

- (a) one shareholder is a corporation of which the other shareholder is an officer or director;
- (b) one shareholder is a partnership of which the other shareholder is a partner;
- (c) one shareholder is a corporation that is controlled, directly or indirectly, by the other shareholder;

- (d) both shareholders are corporations and one shareholder is controlled, directly or indirectly, by the same individual or corporation that controls, directly or indirectly, the other shareholder;
- (e) both shareholders are members of a voting trust where the trust relates to shares of a corporation; or
- (f) both shareholders are associated within the meaning of clauses *a* to *e* with the same shareholder.

Joint
ownership

(4) For the purpose of this section, where an equity share of the corporation is held jointly and one or more of the joint holders thereof is a non-resident, the share shall be deemed to be held by a non-resident.

s. 33 (a),
re-enacted

4. Clause *a* of section 33 of the said Act is repealed and the following substituted therefor:

- (a) exempting persons or classes of persons from this Act or the regulations or any provision thereof in addition to those exempted under section 2.

Commence-
ment

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. This Act may be cited as *The Mortgage Brokers Amendment Act, 1973*.